



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|--------------------|
| 09/746,015 | 12/26/2000 | Glenn Langford | 77666-8/jpw | 2269 |
| 7380 | 7590 | 07/22/2008 | EXAMINER | |
| SMART & BIGGAR P.O. BOX 2999, STATION D 900-55 METCALFE STREET OTTAWA, ON K1P5Y6 CANADA | | | | ABRISHAMKAR, KAVEH |
| ART UNIT | | PAPER NUMBER | | |
| | | 2131 | | |
| | | | MAIL DATE | |
| | | | DELIVERY MODE | |
| | | | 07/22/2008 | |
| | | | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: GLENN LANGFORD

Application No. 09/746,015
Technology Center 2100

Mailed: [Date of mailing]

Before DALE M. SHAW *Chief Appeals Administrator.*
SHAW, *Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 4, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

Summary Of Claimed Subject Matter

Appellant filed an Appeal Brief dated May 18, 2007, in response to a Notification of Non-Compliant Appeal Brief mailed April 18, 2007. The Appeal Brief is not in compliance with 37 CFR § 41.37(c)(v), effective September 13, 2004. 37 CFR § 41.37(c)(v) states in part:

***>(v) Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters.< While reference to page and line number of the specification **>requires< somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. >For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of Claimed Subject Matter” section appearing on pages 3-5 of the Appeal Brief is deficient. Claim 35-42 contains “means for” language. An explanation of the claimed subject matter for claims 35-42 must be mapped to the specification by page and line number. Correction is required.

Application No. 09/746,015

MPEP § 1205.03 states in part:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed May 18, 2007 defective, as required by 37 CFR § 41.37(d);
- 2) notify the Appellant to submit a “paper” which corrects the Appeal Brief, Summary of Claimed Subject Matter under 37 § 41.37(c)(1)(v);
- 3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief; and
- 4) for such further action as may be appropriate.

Application No. 09/746,015

If there are any questions pertaining to this Order, please contact the Board
of Patent Appeals and Interferences at 571-272-9797

BOARD OF PATENT APPEALS
AND INTERFERENCES

DMS/tsj

cc: SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA CANADA